
**REGISTRATION OF TOURIST TRADE
ACT, 1978.**

(Act No. IX of 1978)

**THE JAMMU AND KASHMIR REGISTRATION OF TOURIST
TRADE ACT, 1978**

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**THE JAMMU AND KASHMIR REGISTRATION OF
TOURIST TRADE ACT, 1978**

(Act No. IX of 1978)

[Received the assent of the Governor on 9th May, 1978 and is hereby published for general information].

An Act to provide for the registration of persons dealing with tourists and for matters connected therewith.

Be it enacted by the Jammu and Kashmir State Legislature in the Twenty-ninth Year of the Republic of India as follows :—

PART I

Preliminary

1. *Short title, extent and commencement.* —(1) This Act may be called the Jammu and Kashmir Registration of Tourist Trade Act, 1978.

(2) It shall extend to the ¹[whole of the Union territory of Jammu and Kashmir].

²[(3) It shall come into force on such date as the Government may by notification in the *[Government Gazette], appoint.]

2. *Definitions.*—In this Act, unless the context otherwise requires,—

(a) ‘black-list’ means a list maintained and exhibited by Tourism Department for dealers, hotel-keepers and travel agents who have been black-listed under the provisions of this Act ;

(b) ‘boat’ means house-boat, doonga, boat, shikara, motor boat, motor launch, paddle boat, sailing boat, canoe and bathing boat ;

³[(b-1) ‘camp hotel’ means a hotel providing boarding and lodging facilities in a tent at specified patch of land in a tourist area ;

1. Substituted for “whole of the State of Jammu and Kashmir” by S.O. 1229(E) dated 31.03.2020.

2. Enforced vide SRO-495 dated 19th August, 1978 w.e.f. 1st September, 1978.

* Now Official Gazette.

3. Clauses (b-1) and (b-2) inserted by Act V of 2011, s. 2.

- (b-2) 'camping site' means a specified patch of land in a tourist area where the tentage facilities on prescribed rentals are available or, the tourists and visitors are allowed to pitch their own tents against charges payable to the prescribed authority ;]
- (c) 'certificate of registration' means a certificate issued under this Act ;
- (d) 'dealer' means a person carrying on in a tourist area the business of selling any notified article, whether whole-sale or retail, and includes his agent or employee transacting business on his behalf ;
- ¹[(d-1) 'Excursion agent' means a person engaged in or engaging himself in arranging excursions, tours or picnics for a tourist or tourists ;

Explanation.—For purposes of this clause excursion agent shall include a house-boat owner, whose house-boat is registered under this Act, who may continue to engage himself as an excursion agent without a separate registration as such ;

- ²[(d-2) 'guide' means a person who engages himself as a ski, mountain, rafting, trekking or heritage guide, or functions as a paid guide for tourists ;]

Provided that no person shall be eligible to be registered as a guide unless he possesses such qualifications as may be prescribed :

Provided further that notwithstanding any prescribed qualifications the persons who were working as guides before the commencement of this Act shall *ipso facto* be registered as such guides.]

- (e) 'hotel' means any premises or part of premises including a house-boat, restaurant, dhaba, ³[bar, guest house, tourist lodge, camp hotel or a tent] where lodging with or without board or any kind of eatables or beverages is provided for a monetary consideration ;
- (f) 'hotel-keeper' means any person who owns or operates a hotel as proprietor and includes a person managing or operating the affairs of a hotel for and on behalf of the proprietor ;

1. Added by Act VI of 1982, s. 2.

2. Clause (d-2) substituted by Act V of 2011, s. 2.

3. Substituted for "bar or a tent" *ibid.*

- (g) 'malpractice' includes dishonesty, cheating, touting, impersonation, obstruction in allowing free choice for shopping or stay or travel arrangements, charging a price higher than that displayed on the label or remuneration higher than that fixed under this Act, failure to display price label on the article, failure to give cash memos and wilful failure to execute an order within the stipulated time or according to the terms agreed.

*[Explanation 1.—*For purposes of this clause labelled price shall be the reasonable sale price of the notified article as reflected in the stock book of dealer/manufacturer maintained at their place of business which shall be open for inspection by the prescribed authority or any other authority empowered in this behalf :

Provided that in case of wholesalers dealing in notified articles, the labelled price may be recorded on only one article of an identical set of notified articles :

Provided further that the prescribed authority may not insist on the requirement of the stock book where it is satisfied that the dealer/manufacturer is a small dealer/manufacturer :

Provided also that where reasonability of the labelled price is in dispute the opinion of the Director of Handicrafts, Jammu and Kashmir, shall be final.

*Explanation 2.—*The expression 'touting' means enticing, misguiding or coercing for shopping, accommodation, transportation, sight-seeing, or pestering for any particular premises, person, establishment, dealer or manufacturer with consideration of personal benefit.]

- (h) 'mooring ghat'' means embankment of a river or a lake specially earmarked for purposes of mooring the boats ;
- (i) 'mooring site' means a site where a set of boats may be allowed to moor ;
- (j) 'notified article' means any article notified by the Government in the Gazette for purposes of this Act ;
- (k) 'part' means a part of this Act ;
- (l) 'prescribed' means prescribed by rules made under this Act ;

1. Substituted by Act VI of 1982, s. 2.

- ¹[(m) ‘prescribed authority’ means the Commissioner of Tourism and such other authority, as may be notified by the Government to be the prescribed Authority, for any tourist area or for any provisions of this Act ;]
- (n) ‘tourist area’ means any area notified by the Government in the *[Government Gazette] to be a tourist area for purposes of this Act ;
- (o) ‘tourist’ means a person or group of persons ²[visiting the ³[Union territory of Jammu and Kashmir] for pleasure, adventure, sports or pilgrimage] from any part of India or outside India ;
- ⁴[(p) ‘travel agent’ means a person engaged in the business of making travel, trekking, camping, tour operating or other arrangements for tourists for a monetary consideration ;]

Explanation.—For purposes of clauses (g) and (p) the expression ‘travel arrangements’ includes—

- (a) arrangement for transportation, sight-seeing ;
- (b) arrangements for lodging with or without board ; and
- (c) rendering other services such as assistance for game, sports or receipt or despatch of personal belonging of a tourist ;
- ⁵[(q) “Government” means the Government of the Union territory of Jammu and Kashmir.]

PART II

Registration of Dealers

3. *Registration.* —(1) Every person intending to carry on business of a dealer under this Act shall, before he commences such business, apply for registration to the prescribed authority in the prescribed manner.

1. Clause (m) substituted by Act VI of 1982, s. 2.

* Now Official Gazette.

2. Substituted for “including pilgrims” by Act V of 2011, s. 2.

3. Substituted by S.O. 1229(E) dated 31.03.2020 for “State”.

4. Clause (p) substituted by Act VI of 1982, s. 2.

5. Clause (q) inserted by S.O. 1229(E) dated 31.03.2020.

(2) Notwithstanding anything contained in sub-section (1) any person already carrying on business of selling any notified article in a tourist area on the date such article is notified under clause (j) of section 2 shall apply for registration under this Act within three months from the aforesaid date :

¹[Provided that where, before the commencement of the Jammu and Kashmir Registration of tourist Trade (Amendment) Act, 1982, any person as aforesaid could not apply registration within the time specified above, he shall so apply for registration within six months after such commencement :

Provided further that where any person as aforesaid has applied for registration within the period of three months from the date of issue of the first notification under clause (j) of section 2 and certificate of registration has been issued to him, such certificate of registration shall continue to be valid notwithstanding the rescission of the said notification but subject to other provisions of section 6 of this Act.]

(3) Every application made under sub-section (1) shall be disposed of within a period of three months from the date of receipt of the application failing which the application shall be deemed to have been accepted for registration.

4. *Certificate of registration.*— The prescribed authority shall, unless registration is refused under section 5, direct that the name and the particulars of the dealer be entered in the register maintained for purpose and shall issue a certificate of registration to the dealer in the prescribed form within a period of three months from the date of receipt of the application

5. *Refusal to register.* —(1) The prescribed authority may refuse registration of a dealer under this Act on any of the following grounds, namely :—

- (a) if he is convicted of any offence under ²[Chapters XIII and XVII of the Indian Penal Code (45 of 1860)] or under any of the provisions of this Act or of any offence punishable under any law providing for the prevention of hoarding, smuggling or profiteering or adulteration of food or drug or corruption and ³[six months] have not elapsed since the termination of sentence imposed upon him ;

1. Proviso inserted by Act VI of 1982, s. 3.

2. Substituted by S.O. 1229(E) dated 31.03.2020.

3. Substituted by Act VI of 1982, s. 4.

- (b) if he has been declared an insolvent by a Court of competent jurisdiction and has not been discharged ;
- (c) if his name has been removed from the register under clause (b) or clause (c) of section 6 and six months have not elapsed since the date of removal.

(2) No application for registration shall be refused unless the person applying or registration has been afforded a reasonable opportunity of being heard.

6. *Removal of the name from the register.* —(1) The prescribed authority may, by an order in writing remove the name of a dealer from the register and cancel his certificate of registration on any of the following grounds, namely :—

- (a) if he ceases to be a dealer ;
- (b) if he is convicted of any offence under ¹[Chapters XIII and XVII of the Indian Penal Code (45 of 1860)] or under any of the provisions of this Act or of any offence punishable under any law providing for the prevention of hoarding, smuggling or profiteering or adulteration of food or drugs or corruption ;
- (c) if he is declared an insolvent by Court of competent jurisdiction and has not been discharged ;
- (d) if any complaint of malpractice is received and proved against him ;
- (e) if he is black-listed by the prescribed authority.

²[(2) Omitted.]

7. *Black-listing of dealers.* —(1) The prescribed authority may, on proof of complaint of malpractice or for any other offence committed under this Act, for reasons to be recorded, black-list a dealer, after taking into consideration the nature of malpractice or the gravity of offence ³[for such period which may extend to ⁴[three years].

1. Substituted by S.O. 1229(E) dated 31.03.2020.

2. Omitted by Act VI of 1982, s. 4.

3. Substituted *ibid.*

4. Substituted for “six months” by Act V of 2011, s. 3.

(2) The particulars of a dealer black-listed shall be exhibited at conspicuous places in all tourist areas and notified to all travel, trade and other concerned organisations, foreign missions in India, Indian missions abroad and other important concerned channels after the order black-listing him has become final.

(3) The action taken under sub-section (1) shall not protect such dealer from being prosecuted under the provision of this Act.

(4) If the prescribed authority is satisfied that there are sufficient grounds for removal of a dealer from the black-list, he may, after recording the reasons, order his removal from such list and issue a fresh certificate of registration on payment of prescribed fee and notify the same for the information of all concerned.

8. *Notice of removal and black-listing of dealer.*— Before removing the name of a dealer from the register under section 6 or black-listing him under section 7, the prescribed authority shall give notice to the dealer of the ground or grounds on which it is proposed to take action and hold an inquiry in the presence of the dealer giving him a reasonable opportunity of showing cause against it.

PART III

Registration of Hotels

9. *Registration.* —(1) Every person intending to operate a hotel in a tourist area shall before operating it apply for registration to the prescribed authority in the prescribed manner.

(2) Notwithstanding anything contained in sub-section (1) any person already operating a hotel in a tourist area on the date the notification under ¹[clause (n)] of section 2 is issued, shall apply for registration within three months from the aforesaid date :

²[Provided that where, before the commencement of the Jammu and Kashmir Registration of Tourist Trade (Amendment) Act, 1982, any person as aforesaid could not apply for registration within the time specified above, he shall so apply for registration within six months after such commencement.]

1. Substituted by Act XIII of 1979, s. 2.

2. Proviso inserted by Act VI of 1982, s. 7.

(3) Every application made under sub-section (1) shall be disposed of within a period of three months from the date of receipt of the application failing which the application shall be deemed to have been accepted for registration.

10. *Certificate of registration.*— The prescribed authority shall, unless registration is refused under section 11 direct that the name and the particulars of the hotel and the hotel-keeper be entered in the register maintained for the purpose and shall issue a certificate of registration to the hotel-keeper in the prescribed form.

11. *Refusal to register a hotel.* —(1) The prescribed authority may refuse registration of a hotel under this Act on any of the followings grounds, namely :—

- (a) if the hotel-keeper is convicted of any offence under ¹[Chapters XIII and XVII of the Indian Penal Code (45 of 1860)] or under any of the provisions of this Act or of any offence punishable under any law providing for the prevention of hoarding, smuggling or profiteering or adulteration of food or drugs or corruption and ²[six months] have not elapsed since the termination of the sentence imposed upon him ;
- (b) if the hotel-keeper has been declared an insolvent by a Court of competent jurisdiction and has not been discharged ;
- (c) if the name of the hotel-keeper has been removed from the register under clause (b) or clause (c) of section 12 and six months have not elapsed since the date of removal ;
- (d) if the hotel-keeper does not hold a licence or certificate required to be held by him under any law for the time being in force ;
- (e) if in the opinion of the prescribed authority there is any sufficient ground, to be recorded in writing, for refusing registration.

(2) No application for registration shall be refused unless the person applying for registration has been afforded a reasonable opportunity of being heard.

1. Substituted by S.O. 1229(E) dated 31.03.2020.

2. Substituted by Act VI of 1982, s. 7.

12. *Removal of the name from the register.* —(1) The prescribed authority may by an order in writing, remove the name of a hotel from the register and cancel its certificate of registration on any of the following grounds namely :—

- (a) if the hotel-keeper ceases to operate the hotel in the tourist area for which it is registered ;
- (b) if the hotel-keeper is convicted of any offence under ¹[Chapters XIII and XVII of the Indian Penal Code (45 of 1860)] or under any of the provisions of this Act or of any offence punishable under any law providing for the prevention of hoarding, smuggling or profiteering or adulteration of food or drugs or corruption ;
- (c) if the hotel-keeper is declared an insolvent by a Court of competent jurisdiction and has not been discharged ;
- (d) if any complaint of malpractice is received and proved against a hotel-keeper ;
- (e) if the hotel is black-listed under section 13 ;

²[(2) Omitted.]

13. *Black-listing of hotels.* —(1) The prescribed authority may, on proof of complaint of malpractice or for any other offence committed under this Act, for reasons to be recorded, black-list a hotel, after taking into consideration the nature of malpractice or the gravity of offence ³[for such period which may extend to ⁴[three years].]

(2) The particulars of a black-listed hotel shall be exhibited at conspicuous places in all tourist areas and notified to all travel, trade and other concerned organisations, foreign missions in India, Indian missions abroad.

(3) The action taken under sub-section (1) shall not protect such hotel keeper from being prosecuted under the provisions of this Act.

1. Substituted by S.O. 1229(E) dated 31.03.2020.

2. Omitted by Act VI of 1982, s. 9.

3. Substituted by Act VI of 1982, s. 10.

4. Substituted for “six months” by Act V of 2011, s. 4.

(4) If the prescribed authority is satisfied that there are sufficient grounds for removal of a hotel from the black-list he may, after recording the reasons, order its removal from such list and issue a fresh certificate of registration on payment of prescribed fee and notify the same for the information of all concerned.

14. *Notice of removal and back-listing of hotel.*— Before removing the name of a hotel from the register under section 12 or back-listing it under section 13 the prescribed authority shall give a notice to the hotel-keeper of the ground or grounds on which it is proposed to take action and hold an inquiry in the presence of the hotel-keeper giving him a reasonable opportunity of showing cause against it.

¹[15. *Fixation of rates.*— The Government shall, by notification in the ²[Official Gazette], fix the rates and service charges in respect of hotels which may be charged by the hotel-keeper for boarding or lodging or both from persons staying therein or from other customers :

Provided that such rate and service charges shall be fixed on the recommendations of a committee, the composition whereof shall be such, as may be prescribed :

Provided further that while recommending the rate and service charges, such committee shall take into account the standard of the hotel, the accommodation and services provided by and the quality of food served by it to the customers.]

16. *Hotel-keeper to display information.*— Every hotel-keeper shall cause to be displayed at some conspicuous place of the hotel, such information as may be prescribed.

17. *Hotel-keeper to present detailed bill.*— Every hotel-keeper shall render detailed bills to the person residing in the hotel and other customers and shall give receipts in acknowledgment of all payments.

PART IV

Travel Agent

³[18. *Registration.* —(1) No person shall carry on the business of travel agent, excursion agent or guide in a tourist area unless he is registered in accordance with the provisions of this Act.

1. Substituted by Act V of 2011, s. 5. (For earlier amendment see Act VI of 1982).

2. Substituted for "Government Gazette" by S.O. 1229(E) dated 31.03.2020.

3. Section 18 substituted by Act VI of 1982, s. 12.

(2) Subject to the provisions of clause (d-1) of section 2, every person intending to act as a travel agent, excursion agent or guide in a tourist area shall, before he commences to act as such, apply for registration to the prescribed authority, in the prescribed manner.

(3) Notwithstanding anything contained in sub-section (2) any person acting as a travel agent, excursion agent or guide in a tourist area on the date a notification under clause (n) of section 2 is issued, shall apply for registration within three months from the aforesaid date :

Provided that where, before the commencement of the Jammu and Kashmir Registration of Tourist Trade (Amendment) Act, 1982 any person as aforesaid could not apply for registration within the time specified above he shall so apply for registration within six months after such commencement.

(4) Every application made under this section shall be disposed of within a period of three months from the date of receipt of the application failing which the application shall be deemed to have been accepted for registration.]

¹[19. *Certificate of registration.*— The prescribed authority shall, unless registration is refused under section 20, direct that the name and particulars of the travel agent, excursion agent or guide, as the case may be, be entered in the register maintained for the purpose and issue a certificate of registration to the travel agent, excursion agent or guide in the prescribed form :

Provided that no such certificate may be required in the case of house-boat owner functioning as excursion agent in terms of explanation to clause (d-1) of section 2 of this Act.]

20. *Refusal to register.* —(1) The prescribed authority may refuse the registration of a ²[travel agent, excursion agent or guide] under this Act or any of the following grounds, namely :—

- (a) if he does not possess any of the prescribed qualifications ;
- (b) if he has been convicted of any offence under ³[Chapters XIII and XVII of the Indian Penal Code (45 of 1860)] or under any

1. Section 19 substituted by Act VI of 1982, s. 13.

2. Substituted *ibid.* s. 14.

3. Substituted by S.O. 1229(E) dated 31.03.2020.

of the provisions of this Act or of any offence punishable under any law providing for the prevention of hoarding, smuggling or profiteering or adulteration of food or drugs or corruption and two years have not elapsed since the termination of the sentence imposed upon him ;

- (c) if he has been declared an insolvent by a Court of competent jurisdiction and has not been discharged ;
- (d) if his name has been removed from the register under this Act and one year has not elapsed since the date of removal.

(2) No application for registration shall be refused unless the person applying for registration has been allowed an opportunity of being heard.

21. *Removal of the name from the register.* —(1) The prescribed authority may, by an order in writing, remove the name of a ¹[travel agent, excursion agent or guide] from the register and cancel his certificate of registration on any of the following grounds, namely :—

- (a) if he ceased to act as a ¹[travel agent, excursion agent or guide] in a tourist area ;
- (b) if he is convicted of any offence under ²[Chapters XIII and XVII of the Indian Penal Code (45 of 1860)] or under any of the provisions of this Act or of any offence punishable under any law providing for the prevention of hoarding, smuggling or profiteering or adulteration of food or drugs or corruption ;
- (c) if he is declared an insolvent by a Court of competent jurisdiction and has not been discharged ;
- (d) if any complaint of malpractice is received and proved against him ;
- (e) if he is black-listed by the prescribed authority.

(2) Any ¹[travel agent, excursion agent or guide] whose name is removed from the register under sub-section (1) shall forthwith cease to be a travel agent.

1. Substituted by Act VI of 1982, s. 14.

2. Substituted by S.O. 1229(E) dated 31.03.2020.

22. *Black-listing of*¹*[travel agents, excursion agent, or guide].*—(1) The prescribed authority may, on proof of any complaint of malpractice or for any other offence committed under this Act, for reasons to be recorded, black-list a ¹[travel agent, or guide] after taking into consideration the nature of malpractice or the gravity of offence, ²[for a period which may extend to three months].

(2) The particulars of a ¹[travel agent, excursion agent or guide] black-listed shall be exhibited at conspicuous place and notified to all travel, trade and other concerned organisations, foreign missions in India and Indian missions abroad etc.

(3) The action taken under sub-section (1) shall not protect such travel agent, ¹[excursion agent or guide] from being prosecuted under the provisions of this Act.

(4) If the prescribed authority is satisfied that there are sufficient grounds for removal of a ¹[travel agent, excursion agent or guide] from the black-list he may, after recording the reasons order his removal from such list and issue a fresh certificate of registration on payment of prescribed fee and notify the same for information of concerned.

23. *Notice of removal and black-listing of*¹*[travel agent, excursion agent or guide].*— Before removing the name of a ¹[travel agent, excursion agent or guide] from the register under section 21 or black-listing him under section 22 the prescribed authority shall give notice to the ¹[travel agent, excursion agent or guide] of the ground or grounds on which it is proposed to take action and hold an inquiry in the presence of that person, giving him a reasonable opportunity of showing cause against it.

³[24. *Fixation of rates.*— The Government shall, by notification in the ⁴[Official Gazette], fix the rates which may be charged by a travel agent or guide for the services rendered by him to person engaging him as such except in case of a travel agent whose rates have been approved by a competent authority of the Central Government :

Provided that such rates shall be fixed on the recommendations of a committee, the composition whereof shall be such, as may be prescribed :

1. Substituted by Act VI of 1982, s. 14.

2. Substituted for certain words by Act V of 2011, s. 6.

3. Section 24 substituted *ibid*, s. 7.

4. Substituted for “Government Gazette” by S.O. 1229(E) dated 31.03.2020.

Provided further that while recommending the rate such committee shall take into account the quality of the services provided by the travel agent or the guide.]

¹[25. Omitted].

PART V

Appeal and Revision

26. *Appeals.* —(1) Subject to the provisions of sub-section (2) an appeal shall lie from every order of the prescribed authority under this Act to the appellate authority to be appointed by the Government.

(2) Every such appeal shall be preferred within ninety days from the date of communication of the order :

Provided that the appellate authority may entertain an appeal after the expiry of the said period of ninety days if it is satisfied that the appellant was prevented by sufficient cause from filing it in time.

(3) The appellant shall have a right to appear by a counsel and the prescribed authority may be represented by such officer or person as the Government may appoint.

(4) On receipt of any such appeal, the appellate authority shall, after giving the appellant a reasonable opportunity of being heard and after making such enquiry as it deems proper, dispose of the appeal for reasons to be recorded.

(5) The proceedings before the appellate authority shall be completed within four months of its institution.

27. *Revision.*— The Minister-in-Charge, Tourism Department may at any time call for the record of any case pending before or disposed of by any authority under this Act and if in any such case it shall appear to the Minister-in-Charge that any order passed or proceeding taken should be modified, annulled or reversed, he may pass such order as he may deem fit for reasons to be recorded and such order shall be final :

1. Section 25 omitted by Act VI of 1982, s. 16.

Provided that no order under this section shall be made to the prejudice of the person unless he has had a reasonable opportunity of being heard either personally or through counsel or by a duly authorised agent.

PART VI

Offences and Penalties

28. *Penalty for default in registration.*—(1) Any person carrying on the business of a dealer, hotel-keeper or travel agent without a proper registration under this Act or in violation of any of the provisions of this Act shall be punishable by the prescribed authority with a fine which may extend to ¹[Rs. 5,000] and if the breach is continuing one with a fine of ²[Rs. 500] for each day.

(2) The fine imposed under sub-section (1) shall be recovered as if it is a fine recoverable under the provisions of the *[Code of Criminal Procedure, Samvat 1989].

Explanation.—A person who has made an application within the prescribed period and is pending disposal shall not be a defaulter for the purposes of this section.

29. *Penalty for false statement.*— If any person required to make a statement under this Act wilfully makes a false statement or suppresses a material fact with an intention to mislead the prescribed authority, he shall be liable to punishment with imprisonment for a term which may extend to three months or with fine not exceeding ³[Rs. 5,000] or with both.

30. *Certificate not to be assigned.*— Any person who lends, transfers or assigns the certificate of registration issued under this Act, shall be liable to punishment with imprisonment which may extend to six months or with fine not exceeding ⁴[Rs. 10,000] or with both.

31. *Certificate and documents to be shown to person on demand.*— (1) Any person registered under this Act, shall at all times on demand, produce and show his certificate or any other document required under this Act to—

1. Substituted for "Rs. 2,000" by Act V of 2011, s. 8.

2. Substituted for "Rs. 100" *ibid.*

3. Substituted for "Rs. 500" *ibid.*, s. 9.

4. Substituted for "Rs. 2,000" *ibid.*, s. 10.

* Now Code of Criminal Procedure, 1973 (2 of 1974).

(a) the prescribed authority or any officer duly authorised by him in this behalf ; and

¹[(b) any bona fide customer, who demands for the certificate of registration issued under this Act.]

(2) Any person who refuses on demand to show his certificate or document, or allow it to be read by any of the persons authorised to demand it, shall be liable to punishment with fine not exceeding ²[Rs. 5,000 for every default].

32. *Penalty for malpractice.*— Any dealer, hotel-keeper, travel agent or any other person to whom this Act may be made applicable who commits a malpractice or contravenes any other provision of this Act in the tourist area for which no specific penalty has been provided shall be liable to punishment with imprisonment for a term which may extend to ³[one year] or with fine not exceeding ⁴[Rs. 10,000] or with both.

33. *Obstructing lawful authorities.*—If any person wilfully obstructs or offers any resistance to, or otherwise interferes in the discharge of the functions of the prescribed authority or any officer authorised by him exercising any power, or performing any duties conferred or imposed upon it or him by or in pursuance of this Act or the rules made thereunder, he shall be liable to punishment with imprisonment which may extend to ⁵[one year] or with fine not exceeding ⁶[Rs. 10,000] or with both.

34. *Offences to be tried summarily.*—Notwithstanding anything contained in this Act or in the ⁷[Code of Criminal Procedure, 1973 (2 of 1974)] all offences under this Act shall be triable summarily.

35. *Special rule of evidence.*—Notwithstanding anything contained in the ^{*}[Evidence Act, Svt. 1977], when any complaint under this Act is made in writing by any person to the prescribed authority it may be admitted in evidence. The examination of the complainant shall not be obligatory in any

1. Substituted by Act VI of 1982, s. 17.

2. Substituted for “Rs. 500” by Act V of 2011, s. 11.

3. Substituted for “three months” *ibid*, s. 12.

4. Substituted *ibid* for “Rs. 1,000”.

5. Substituted for “three months” *ibid*, s. 13.

6. Substituted *ibid* for “Rs. 100”.

7. Substituted by S.O. 1229(E) dated 31.03.2020 for “Code of Criminal Procedure, Svt. 1989”.

* Now Indian Evidence Act, 1872.

trial by a Judicial Magistrate if such person is dead or cannot be found or is incapable of giving evidence.

¹[36. *Institution of proceedings.*—(1) Save as otherwise provided in sub-section (2) no prosecution shall be instituted against any person for any offence under this Act, except on a complaint made by the prescribed authority or a Police Officer, not below the rank of Sub-Inspector.

(2) Any offence relating to touting committed under this Act shall be cognizable and non-bailable.]

37. *Powers of the prescribed authority to summon and enforce attendance of witnesses and other persons.*—The prescribed authority shall have the powers of a Civil Court under the ²[Code of Civil Procedure, 1908 (5 of 1908)] while trying a suit, in respect of the following matters, namely :—

- (1) summoning and enforcing attendance of the complainant or the person against whom complaint is made under this Act and witnesses required in connection therewith,
- (2) compelling the production of any document, and
- (3) examining witnesses on oath,

and may summon and examine *suo moto* any person whose evidence appears to be material.

Explanation.—For purposes of enforcing the attendance of witnesses and other persons mentioned above, the local limits of the jurisdiction of the prescribed authority extends to the whole of the *State.

38. *Composition of offences.*—(1) The prescribed authority may accept from any person accused of an offence under this Act, a sum of money by way of composition for such offence and may out of money so received compensate the person against whom the offence has been committed to the extent the prescribed authority deems reasonable.

1. Section 36 substituted by Act VI of 1982, s. 18.

2. Substituted by S.O. 1229(E) dated 31.03.2020 for “Code of Civil Procedure, Samvat 1977”.

* Now Union territory of Jammu and Kashmir.

(2) On the composition of offence, no further proceeding in respect thereof shall be taken against the accused and if any proceeding has already been instituted against him in any court, the composition shall have the effect of acquittal.

PART VII

Miscellaneous

39. *Notification of changes.*—(1) Whenever a business for which certificate of registration is held by a person devolves by inheritance or otherwise upon any other person or undergoes a change in respect of any particular entered in the register under this Act, such person shall, within sixty days of the date of such devolution or change, notify in writing the fact to the prescribed authority.

(2) The prescribed authority shall make necessary changes in the register maintained for the purpose and in the certificate of registration.

(3) Notwithstanding anything contained in sub-section (2) the prescribed authority may remove from the register the name of the person in whose favour the certificate was issued and cancel the certificate of registration if the successor is not qualified to be registered under this Act.

40. *Return of the certificate of registration.*— When a certificate of registration is cancelled under this Act, the person holding such certificate shall within seven days from the date of publication of the order of cancellation in the *[Government Gazette], return it to the prescribed authority.

41. *Duplicate certificate.*— If a certificate of registration issued under this Act is lost, damaged or destroyed the prescribed authority shall on an application made in that behalf by the person holding such certificate and on payment of the prescribed fee, issue a duplicate certificate.

42. *Certificate of registration to be kept exhibited.*— The certificate of registration shall be exhibited by the person holding it in a conspicuous place at the principal place of his business and if he has no place of business, he shall keep it on his person.

* Now Official Gazette.

43. *Publication of list of persons removed from the register.*— The prescribed authority shall from time to time publish in the ^{*}[Government Gazette] and in such other manner as it deem fit, the names and addresses of the persons and of the hotels whose names have been removed from the register and who have been refused registration under this Act.

44. *Power to inspect.*— The prescribed authority or any person authorised by him in this behalf may within the tourist area, inspect at all reasonable times, the premises in which a dealer or a travel agent carries on his business or any premises where a hotel is operated and require such dealer, travel agent or a hotel-keeper to produce any document, kept in pursuance of this Act or the rules made thereunder for inspection.

¹[45. *Fixation of rates, commission and other services.*— The Government shall, by notification in the ²[Official Gazette], fix the rates which may be charged for hiring of boats, ponies, river rafts, adventure sports equipment, guides, ski patrols, high altitude porters and trekking porters :

Provided that such rates shall be fixed on the recommendation of a committee, the composition whereof shall be such, as may be prescribed :

Provided further that while recommending the rates, such committee shall take into account the standard of the equipment and quality of the service provided by the service provider.]

46. *Powers of the Government to apply the Act to other persons.*— The Government may by notification in the ²[Official Gazette] direct that all or any of the provisions of this Act or the rules made thereunder shall with such exception, adaptations or modification as may be considered necessary apply to persons doing the business in a tourist area or letting or playing for hire boats, automobile vehicles, tongas, dandies, ponies or to such other persons as may specified in the notification.

³[47. *Powers and duties of the District Magistrate and Police in respect of offences under this Act.*—(1) Every Police Officer shall give immediate information to the Deputy Superintendent of Police of the area and to the prescribed authority of an offence coming to his knowledge

* Now Official Gazette.

1. Section 45 substituted by Act V of 2011, s. 14.

2. Substituted for “Government Gazette” by S.O. 1229(E) dated 31.03.2020.

3. Section 47 substituted by Act VI of 1982, s. 19.

which has been committed against this Act or against any rule made thereunder.

(2) ¹[District Magistrate of the area or an officer of the Tourism Department not below the rank of Deputy Director, Tourism] shall have power to declare any person indulging in touting, out of bounds from places like airport, Railway Station, Bus Stand, Tourist Reception Centre and Picnic Area for such period which shall not be less than three months but may extend to six months.]

48. *Indemnity.*— No suit, prosecution or other legal proceedings whatsoever shall lie against the Government or any person in respect of anything which is in good faith done or intended to be done under this Act.

49. *Reservation of powers of local authority.*— Nothing in this Act shall take away or diminish any of the powers vested in any local authority by or under any law for the time being in force.

50. *Power to make rules.* —(1) The Government may by notification in the ²[Official Gazette] make rules for carrying out the purposes of this Act.

(2) In particular and without prejudice to the generality of the foregoing powers, such rules may provide for—

- (a) the maintenance of registers, books and forms by a hotel-keeper, dealer or travel agent for conduct of business ;
- (b) the form of application for registration and for certificate of registration ;
- (c) the fee for registration ;
- (d) the manner of giving notices under this Act ;
- (e) classification of hotels and travel agents ;
- (f) qualifications for registration as travel agents ;

1. Substituted for “District Magistrate of the area” by Act V of 2011, s. 15.

2. Substituted by S.O. 1229(E) dated 31.03.2020 for “Government Gazette”.

- (g) manner of publication of the names and addresses of the persons and of the hotels removed from the register or to whom registration has been refused ;
- (h) manner in which a dealer, a hotel and a travel agent shall be black-listed and the publication of names and addresses of such dealer, hotel and travel agent ;
- (i) the place where the prescribed authority shall held enquiry under this Act ; and
- (j) all matters expressly required to be prescribed under this Act.

(3) The rules made under this Act shall be subject to the condition of previous publication.

51.Repeal and saving.— The Jammu and Kashmir Registration of Tourist Trade Act, 1962 is hereby repealed :

Provided that the repeal shall not affect—

- (a) the previous operation of the Act so repealed or anything duly done or suffered thereunder ;
- (b) any right, privilege, obligation or liability acquired, accrued or incurred under the Act so repealed ;
- (c) any penalty, forfeiture or punishment incurred in respect of any offence committed against any provision of the Act so repealed ; or
- (d) any investigation, legal proceeding or remedy in respect of any such right, privilege, obligation, liability, penalty, forfeiture or punishment as aforesaid ;

and any such investigation, legal proceeding or remedy may be instituted, continued or enforced and any such penalty, forfeiture or punishment may be imposed as if this Act has not been passed :

Provided further that subject to the preceding proviso, anything done or any action taken (including any appointment or delegation made,

notification, instruction or direction issued, forms prescribed, certificate obtained, permit or licence granted or registration effected under the law so repealed shall be deemed to have been done or taken under the corresponding provisions of this Act and shall continue to be in force accordingly unless and until superseded by anything done or any action taken under this Act.
